TD 94/D26 - Fringe benefits tax: will a car parking benefit arise under section 39A of the Fringe Benefits Tax Assessment Act 1986 where a car dealer provides a car from the car yard to employees for travel to or from work?

This cover sheet is provided for information only. It does not form part of *TD 94/D26 - Fringe benefits tax: will a car parking benefit arise under section 39A of the Fringe Benefits Tax Assessment Act 1986 where a car dealer provides a car from the car yard to employees for travel to or from work?*

This document has been finalised by TD 94/54.

Australian Taxation Office

Taxation Determination **TD 94/D26**

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Fringe benefits tax: will a car parking benefit arise under section 39A of the *Fringe Benefits Tax Assessment Act 1986* where a car dealer provides a car from the car yard to employees for travel to or from work?

1. No. A car parking benefit will not arise under section 39A where a car dealer allows an employee to use a car for travel to or from work and:

- the car forms part of the dealer's trading stock, and
- the car is normally held on display in the showroom or yard.

2. For section 39A to apply there must be a provision of parking facilities. It is considered that an area set aside in a car yard for the display of trading stock does not constitute a 'parking facility'. While it is considered that the term 'parking facility' will include any area which is actually used for parking cars (and is not restricted to formal car parking facilities or an area set aside specifically for parking), it is recognised that a display floor/yard has materially different characteristics which set it apart from what would ordinarily be considered a parking facility.

Example

Bill operates a used car yard which is located within a 1 km radius of a commercial car parking station. Bill allows his car sales staff to take home (overnight or on weekends) cars held for sale in the car yard. No car parking fringe benefit arises.

Commissioner of Taxation
17/3/94

FOI INDEX DETAIL: Reference No.
Related Determinations:
Related Rulings: MT 2023
Subject Ref: fringe benefits tax; car parking, car parking benefit
Legislative Ref: FBTAA 39A, 136(1)
Case Ref:
ATO Ref: NAT 93/2841-6, FBT Cell 30/69

ISSN 1038 - 8982